

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Central Illinois Public Service Company	:	
d/b/a AmerenCIPS	:	
	:	07-0532
Petition for a Certificate of Public	:	
Convenience and Necessity, pursuant	:	
To Section 8-406 of the Illinois Public	:	
Utilities Act, to construct, operate and	:	
Maintain new 138,000 volt electric lines in	:	
Madison County, Illinois.	:	

**INITIAL BRIEF OF THE STAFF OF THE
ILLINOIS COMMERCE COMMISSION**

Staff of the Illinois Commerce Commission (“Staff”), by and through its undersigned counsel, pursuant to Section 200.800 of the Illinois Commerce Commission’s (“Commission”) Rules of Practice, 83 Ill. Adm. Code 200.800, respectfully submits its Initial Brief in the above-captioned proceeding.

I. INTRODUCTION

On October 29, 2007, Central Illinois Public Service Company d/b/a AmerenCIPS (“AmerenCIPS”, the “Company”, or the “Petitioner”) filed a Petition with the Illinois Commerce Commission (the “Commission”) for a Certificate of Public Convenience and Necessity (“Certificate”) pursuant to Section 8-406 of the Illinois Public Utilities Act (the “Act”), 220 ILCS 5/8-406, authorizing AmerenCIPS to construct, operate, and maintain two new 138 kilovolt (“kV”) electric lines (the “Transmission Lines”) connecting the Wood River Refinery

owned by WRB Refining, LLC (“WRB”) to the existing Illinois Power Company d/b/a AmerenIP Wood River-Roxford L1502 and AmerenCIPS Roxford-BOC transmission lines. AmerenCIPS also requested, pursuant to Section 8-503 of the Act, 220 ILCS 5/8-503, an Order directing that the Transmission Lines be built.

An evidentiary hearing was held in this matter on May 22, 2008, in the Commission’s Springfield offices. Appearances were entered by counsel on behalf of the Petitioner, WRB and Staff. At the hearing, Gary T. Brownfield, Rick D. Trelz, James N. Chapman II, Kenneth W. Lynn, and Thomas W. Girman testified on behalf of the Petitioner. Herman L. Seedorf testified on behalf of WRB. Greg Rockrohr, a Senior Electrical Engineer in the Engineering Department of the Energy Division testified on behalf of Staff. At the conclusion of the May 22, 2008 evidentiary hearing, the record was marked “Heard and Taken”.

II. STATUTORY AUTHORITY

A. Section 8-406 of the Act

Section 8-406 of the Act provides the criteria upon which the Commission must base its determination regarding whether it should grant AmerenCIPS a Certificate for the Transmission Lines. Section 8-406 of the Act provides, in relevant part, as follows:

(a) No public utility. . . shall transact any business in this State until it shall have obtained a certificate from the Commission that public convenience and necessity require the transaction of such business.

* * *

(b) No public utility shall begin the construction of any new plant, equipment, property or facility which is not in substitution of any existing plant, equipment, property or facility or any extension or alteration thereof or in addition thereto, unless and until it shall have obtained from the Commission a certificate that public convenience and necessity require such construction. Whenever after a hearing the Commission determines that any new construction or the transaction of any business by a public utility will promote the public convenience and is necessary thereto, it shall have the power to issue certificates of public convenience and necessity. The Commission shall determine that proposed construction will promote the public convenience and necessity only if the utility demonstrates: (1) that the proposed construction is necessary to provide adequate, reliable, and efficient service to its customers and is the least-cost means of satisfying the service needs of its customers; (2) that the utility is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision thereof; and (3) that the utility is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers.

B. Section 8-503 of the Act

Section 8-503 of the Act provides the criteria and circumstances under which a utility may receive an Order from the Commission directing it to construct a certain project. Section 8-503 provides, in relevant part, as follows:

Whenever the Commission, after a hearing, shall find that additions, extensions, repairs or improvements to, or changes in, the existing plant, equipment, apparatus, facilities or other physical property of any public utility or of any 2 or more public utilities are necessary and ought reasonably to be made or that a new structure or structures is or are necessary and should be erected, to promote the security or convenience of its employees or the public or promote the development of an effectively competitive electricity market, or in any other way to secure adequate service or facilities, the Commission shall make and serve an order authorizing or directing that such additions, extensions, repairs, improvements or changes be made, or such structure or structures be erected at the location, in the manner and within the time specified in said order...

C. Section 8-509 of the Act

Section 8-509 of the Act, 220 ILCS 5/8-509, provides the criteria which a public utility must satisfy to obtain eminent domain authority from the Commission. Section 8-509 provides, in relevant part, as follows:

When necessary for the construction of any alterations, additions, extensions or improvements ordered or authorized under Section 8-503 or 12-218 of this Act, any public utility may enter upon, take or damage private property in the manner provided for by the law of eminent domain.

III. STAFF'S POSITION

A. Introduction

In direct testimony Staff witness Greg Rockrohr described his analysis relating to AmerenCIPS' requests for a Certificate pursuant to Section 8-406 of the Act and for an Order pursuant to Section 8-503 of the Act, authorizing and directing the construction of the Transmission Lines. The northern-most line that AmerenCIPS proposes is identified as COP Sub Tap 2, and the southern-most 138kV line is identified as COP Sub Tap 1. (ICC Staff Exhibit 1.0, p. 2, ll. 34-39) Mr. Rockrohr explained that, although he is not an attorney, he understood that by granting AmerenCIPS a Certificate, the Commission would be granting the Company permission to construct the Transmission Lines that it proposes, but AmerenCIPS could still choose not to construct them. However, if the Commission were to also issue an Order pursuant to Section 8-503 of the Act, as AmerenCIPS requested, then the Company would no longer have the option not to construct the Transmission Lines. (ICC Staff Exhibit 1.0, pp. 7-8, ll. 151-174) A discussion of Mr. Rockrohr's position regarding AmerenCIPS' requests follows.

B. AmerenCIPS' Request for a Certificate

Mr. Rockrohr recommended that the Commission grant AmerenCIPS' request for a Certificate for the two Transmission Lines it proposes. (ICC Staff Exhibit 1.0, p. 2, ll. 28-29) Mr. Rockrohr stated he agreed with AmerenCIPS' plan to modify its electric service to Wood River Refinery from 34.5 kV to 138 kV because: (1) supplying the refinery at 138kV would be more efficient, (2) delivery voltage at 138 kV will result in lower delivery service charges for the refinery, and (3) supplying the refinery with 138 kV lines that are dedicated to the refinery should result in more reliable service for both the refinery and other area customers. (ICC Staff Exhibit 1.0, p. 4, ll. 77-94) Furthermore, based upon information provided by AmerenCIPS and Mr. Rockrohr's own inspection of the area, Mr. Rockrohr stated he did not object to the routes AmerenCIPS selected for its proposed 138 kV Transmission Lines. (ICC Staff Exhibit 1.0, p. 4-6, ll. 95-129) Mr. Rockrohr also stated he has no reason to doubt AmerenCIPS' assertion made in its Petition that it is capable of efficiently managing and supervising the construction of the Transmission Lines it proposes to build. Mr. Rockrohr explained that since WRB would pay AmerenCIPS' entire cost to install the two new 138 kV Transmission Lines, the project would not result in any significant adverse financial consequences for AmerenCIPS or its customers. (ICC Staff Exhibit 1.0, pp. 6-7, ll. 130-144)

C. AmerenCIPS' Request for an Order Pursuant to Section 8-503 of the Act

Mr. Rockrohr testified that he supports the Commission's granting of an Order pursuant to Section 8-503 of the Act for only one of the two Transmission Lines that AmerenCIPS proposes: COP Sub Tap 2. (ICC Staff Exhibit 1.0, p. 2, ll. 28-30) Mr. Rockrohr explained that he knows of no reason for AmerenCIPS to request an Order pursuant to Section 8-503 of the Act except to receive eminent domain authority. Mr. Rockrohr further explained that Section 8-509 of the Act appears to him to state that after a utility receives an Order pursuant to Section 8-503 of the Act, it "...may enter upon, take or damage private property in the manner provided for by the law of eminent domain." Mr. Rockrohr therefore concluded that if the Commission were to issue an Order pursuant to Section 8-503 of the Act, as AmerenCIPS requested, then AmerenCIPS would in practical terms be receiving eminent domain authority. (ICC Staff Exhibit 1.0, pp. 8-9, ll. 175-202)

After ascertaining the relationship between AmerenCIPS' request for an Order pursuant to Section 8-503 and eminent domain authority, Mr. Rockrohr explained that only one of the proposed Transmission Lines would be necessary to supply the Wood River Refinery load. The second transmission line (COP Sub Tap 1) is contemplated because the refinery owner requested it. (ICC Staff Exhibit 1.0, p. 10, ll. 223-226) Mr. Rockrohr opined that it would be reasonable for AmerenCIPS to supply Wood River Refinery with two 138 kV sources only if: (1) the refinery owner pays for the second transmission line, and (2) constructing the second transmission line does not inconvenience other property owners.

However, Mr. Rockrohr argued that if AmerenCIPS needs to use eminent domain authority to take or damage property, then affected property owners would be inconvenienced. Furthermore, since AmerenCIPS did not mention in its Petition that it was, in practical terms, seeking eminent domain authority by requesting an Order pursuant to Section 8-503 of the Act, affected property owners would likely be unaware that their property was at risk and that they have missed their opportunity in this proceeding to voice meaningful objection to the taking of their property. (ICC Staff Exhibit 1.0, pp.10-11, ll. 235-249)

Based upon his understanding of the relationship between Sections 8-406, 8-503, and 8-509 of the Act, Mr. Rockrohr recommended that the Commission grant AmerenCIPS a Certificate for both transmission lines (identified as COP Sub Tap 2 and COP Sub Tap 1), but that the Commission issue an Order pursuant to Section 8-503 of the Act for only the northern-most transmission line (COP Sub Tap 2). (ICC Staff Exhibit 1.0, p.11, ll. 252-261) Mr. Rockrohr further recommended that the Commission's Order direct AmerenCIPS to construct the transmission line only if all costs for constructing the lines are borne by the refinery owner so that the Commission would not obligate AmerenCIPS, through its Order, to construct the project even if circumstances develop differently at the refinery than AmerenCIPS now expects. (ICC Staff Exhibit 1.0, pp. 12, ll. 268-274) Finally, Mr. Rockrohr explained that his recommendations are based upon his understanding of the relationship between Sections 8-406 and 8-503 of the Act, which he described in direct testimony. If the Commission instead interprets these two statutes to mean that anytime a Certificate is issued under Section 8-

406 of the Act, then an Order pursuant to Section 8-503 of the Act is automatically justified, then Mr. Rockrohr would modify his recommendation to include a Certificate under Section 8-406 of the Act and an Order pursuant to Section 8-503 of the Act for only the transmission line AmerenCIPS designates as COP Sub Tap 2. (ICC Staff Exhibit 2.0, pp.4-5, ll. 81-89)

IV. CONCLUSION

For the foregoing reasons, Staff respectfully requests that the Commission approve the Company's requests in the instant proceeding in accordance with Staff's recommendations herein.

Respectfully submitted,

A handwritten signature in black ink that reads "Linda M. Buell". The signature is written in a cursive, flowing style.

LINDA M. BUELL

Counsel for the Staff of the Illinois
Commerce Commission

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LINDA M. BUELL
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701
Phone: (217) 557-1142
Fax: (217) 524-8928
E-mail: lbuell@icc.illinois.gov